

REMARKS/ARGUMENTS

Claims 1-51 were previously pending. As noted above, no claims have been amended, no claims have been canceled, and no claims have been added. Thus, claims 1-51 remain pending.

Applicants respectfully request reconsideration of this application based on the following remarks.

Claim Rejections – 35 USC § 103

Claims 1-7, 9-16, 18-20, 22-27, 29-36, 39-44 and 46-50 are rejected under 35 USC § 103(a) as being obvious over Gagnon et al. (European Patent Application No. 1 024 661 A2) in view of Wugofski (US Patent No. 6,990,680).

Claim 8 is rejected under 35 USC § 103(a) as being obvious over Gagnon et al. (European Patent Application No. 1 024 661 A2) in view of Wugofski (US Patent No. 6,990,680) and in further view of Birdwell et al. (US Patent No. 6,032,197).

Claims 17, 28 and 45 are rejected under 35 USC § 103(a) as being obvious over Gagnon et al. (European Patent Application No. 1 024 661 A2) in view of Wugofski (US Patent No. 6,990,680) and in further view of Rustad et al. (US Patent No. 6,775,303).

Claims 21, 37-38 and 51 are rejected under 35 USC § 103(a) as being obvious over Gagnon et al. (European Patent Application No. 1 024 661 A2) in view of Wugofski (US Patent No. 6,990,680) and in further view of Matsui et al. (US Patent No. 6,580,756). Applicants respectfully traverse this rejection for at least the following reasons.

Initially, the Examiner concedes that Gagnon does not specifically disclose “transmitting broadcast overhead information for the broadcast session in-band with the broadcast session on the broadcast transmission channel,” as recited in the claimed subject matter. See. e.g. Office Action, dated September 22, 2009, page 3. To remedy this deficiency, the Examiner relies on Wugofski, citing column 2, lines 11-31, column 3 line 39–column 4 line 3, and Figure 1A as support. A portion of the cited passage reads as follows:

A system for scheduling caching of in-band data operates as part of a computerized system having tuning circuitry to receive and store data broadcast in-band in a channel at a scheduled time. The scheduled caching system operates in conjunction with a real-time scheduling process provided by the computerized

system. A scheduling process determines a scheduled time and channel for the in-band data broadcast and invokes the real-time scheduling process to schedule a caching process for execution at approximately the scheduled time. *When executed, the caching process instructs the tuning circuitry to tune to the scheduled channel, receives the in-band data from the tuning circuitry and stores the in-band data on mass storage for subsequent processing.* The caching process also powers on the tuning circuitry and parses the in-band data from other content broadcast in the channel if necessary. The in-band data can be broadcast in the vertical blanking interval of a television channel or in a portion of a digital satellite transmission channel. The scheduling process also presents a plurality of schedules to a user for selection. A digital processing system configured to support the scheduled caching system is also disclosed. (Emphasis added).

Contrary to the assertion of the Examiner, the cited passage neither discloses nor suggests the claimed subject matter. First, the cited reference discloses tuning to a scheduled channel to receive in-band data, which fails to disclose or suggest the recited "broadcast overhead information for the broadcast session" being transmitted "in-band with the broadcast session," and using the information in "processing the received broadcast session." In other words, Wugofski discloses tuning to a specific channel to receive general in-band data, rather than receiving in-band overhead information for the specific session within the specific session. Second, the cited reference discloses storing the in-band data for subsequent processing. This further demonstrates that the in-band data disclosed in Wugofski is referring to different data than the "in-band overhead information" recited in the claimed subject matter, as the recited "in-band overhead information" is for the broadcast session in which it is being transmitted and is used for that specific broadcast session. As such, Wugofski neither discloses nor suggests the claimed subject matter.

Further, in the Response to Arguments section of the September 22, 2009 Office Action, the Examiner asserts that "program guide information about broadcast sessions is similar to the information provided by the SDP+ records of Gagnon." Applicants respectfully disagree. As defined in the cited reference, "in-band" data differs from "in-band overhead information" recited in the claimed subject matter. For example, Wugofski discloses that "[i]n the world of broadcast media, such as television, a broadcast channel can transmit data streams as well as audio and video content to a properly equipped tuner/receiver. This transmission method is called 'in-band' transmission and currently provides a subscriber with data services such as stock quotes, sports scores, and electronic program guides (EPG) for television schedules." See. Wugofski, column 1, lines 47-51. The general disclosure of electronic program guides for

television schedules does not teach the specific inclusion of "overhead information for *the* broadcast session in-band with *the* broadcast session," as recited in the claimed subject matter.

Still further, the other cited references are silent with respect to remedying this deficiency.

Therefore, based on the foregoing, Applicants respectfully request the rejections under 35 USC § 103(a) be withdrawn for claims 1-51.

CONCLUSION

In light of these remarks, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Dated: December 9, 2009

Respectfully submitted,

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